

**CHAPTER 19 UPTOWN ARTS-MIXED USE (ARTS) OVERLAY DISTRICT****Section**

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**1900 GENERAL PROVISIONS**

1900.1 The Uptown Arts-Mixed Use (ARTS) Overlay District is applied to the Commercial and Mixed Use Districts in the following squares and portions of squares in the 14th and U Streets, N.W., area: 202 through 211, 234 through 242, N242, 272, 273, 274, 303, 304, 305, 331, 332, 333, 358 through 361, 393, 416, 440, 441, and the portions of squares 2875 and 2877 that are south of V Street.

1900.2 The purposes of the ARTS Overlay District are to:

- (a) Encourage a scale of development, a mixture of building uses, and other attributes such as safe and efficient conditions for pedestrian and vehicular movement, all of which will be as generally required by the Comprehensive Plan;
- (b) Require uses that encourage pedestrian activity, especially retail, entertainment, and residential uses;
- (c) Provide for an increased presence and integration of the arts and related cultural and arts-related support uses;
- (d) Expand the area's housing supply in a variety of rent and price ranges;
- (e) Expand business and job opportunities, and encourage development of residential and commercial buildings;
- (f) Strengthen the design character and identity of the area by means of physical design standards;

(g) Encourage adaptive reuse of older buildings in the area and an attractive combination of new and old buildings; and

(h) Foster eighteen (18) hour activity and increased public safety.

1900.3 The ARTS Overlay District and the underlying zoning shall constitute the Zoning Regulations for the geographic area identified in § 1900.1. Where there are conflicts between this chapter and the underlying zoning, the more restrictive regulations shall govern.

1900.4 The requirements of this chapter shall apply to all new construction and to any addition, alteration, or repair that within any twenty-four (24) month period exceeds seventy-five percent (75%) of the assessed value of the building; provided:

(a) The cost basis for alterations or additions to an existing building shall be the amount indicated by the applicant on the application for a building permit; and

(b) The assessed value of the building shall be the value in the records of the Office of Tax and Revenue as of the date of the building permit application.

**AUTHORITY:** Unless otherwise noted, the authority for this chapter is the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code §§ 6-641.01 to 641.15 (2001))(formerly codified at D.C. Code §§ 5-413 to 5-432 (1994 Repl. & 1999 Supp.)).

**SOURCE:** Final Rulemaking published at 37 DCR 1392, 1395 (February 23, 1990); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8490-91 (October 20, 2000).

## **1901 USE PROVISIONS**

1901.1 Retail and service uses listed in § 1907 and arts and arts-related uses listed in § 1908 shall occupy no less than fifty percent (50%) of the ground level of each building on a lot that fronts on 14th Street, U Street, or 7th Street; or on Florida Avenue between 7th and 9th Streets; provided, this requirement shall not apply to a building located on a lot less than fifty feet (50 ft.) in width, measured along the property line that abuts the public street, if the building is used as an apartment house, multiple dwelling, or hotel.

1901.2 A hotel shall be a permitted use; provided, no other hotel is located within five hundred feet (500 ft.).

1901.3 No drive-through accessory to any use shall be permitted.

- 1901.4 A use that exists on the February 23, 1990, having a certificate of occupancy for a use first permitted in a C-M District, shall be permitted to expand if approved by the Board of Zoning Adjustment as a special exception, subject to the requirements of § 3104 and the following conditions:
- (a) There shall be no outdoor storage of materials, nor any outdoor processing, fabricating, or repairs;
  - (b) There shall be adequate off-street parking for trucks and other service vehicles;
  - (c) The use shall not create objectionable effects on the character of the neighborhood because of its operations, traffic, or other conditions; and
  - (d) The Board may impose requirements that apply to the design, appearance, or screening of the site or any other requirement that it deems necessary to protect neighboring or adjacent property.
- 1901.5 Required parking spaces may be shared by time of day with other uses specified in this subsection to meet all or a portion of the parking requirement for the uses on a lot; provided:
- (a) The eligible evening uses shall be restaurant, legitimate theater, movie theater, dinner theater, or cabaret;
  - (b) The eligible daytime uses shall be office use and the arts uses and arts-related uses listed in § 1908, with the exception of the evening uses listed in paragraph (a) of this subsection; and
  - (c) The respective property owners shall execute an agreement that identifies the designated parking spaces and provides that use of the spaces for permitted daytime uses shall cease at no later than 6:00 p.m., Monday through Saturday, and shall be available for parking by the specified evening uses as agreed to by the parties involved. This agreement shall be filed with the Zoning Administrator to be maintained as part of the certificate of occupancy file on each affected property.
- 1901.6 Eating and drinking establishments shall occupy no more than twenty-five percent (25%) of the linear foot frontage within the ARTS Overlay District, as measured along the lots fronting on 14th Street and U Street, N.W.

**SOURCE:** Final Rulemaking published at 37 DCR 1392, 1396 (February 23, 1990); as amended by Final Rulemaking published at 39 DCR 8323, 8324 (November 13, 1992); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8492 (October 20, 2000).

**1902 HEIGHT AND BULK**

- 1902.1 In the underlying C-3-A District, a building may be constructed in excess of the height limit of sixty-five feet (65 ft.), up to a maximum height of seventy-five feet (75 ft.); provided:
- (a) No roof structure permitted by this title shall exceed a height of eighty-three and one-half feet (83½ft.) above the measuring point used for the building; and
  - (b) If the lot abuts either a Residence District or an alley that serves as the zone district boundary line of an adjacent Residence District, no part of the building shall project above a plane drawn at a forty-five degree (45°) angle from a line located fifty feet (50 ft.) directly above the property line that abuts the Residence District or the alley.
- 1902.2 In the underlying CR District, if a building is located on a lot that abuts a street, an alley, or a zone district boundary with a Residence District, no part of the building shall project above a plane drawn at a forty-five degree (45°) angle from a line located sixty-five feet (65 ft.) directly above the property line on each such street, alley, or zone district boundary line.
- 1902.3 In the underlying CR District, development of a lot or lots in a combined lot development pursuant to § 1905 shall provide not less than 2.5 floor area ratio (FAR) of residential or hotel development subject to the spacing requirement of § 1901.2, concurrent with any commercial development on the lot or combined lots; provided:
- (a) This requirement shall not apply to a lot or combined lots having less than seven thousand five hundred square feet (7,500 ft.<sup>2</sup>) of land area or to conversion of a building constructed before 1958 to nonresidential uses; and
  - (b) In developments in which residential development is required by this subsection, a certificate of occupancy for commercial or nonresidential uses shall not be issued prior to the issuance of a certificate of occupancy for a residential or hotel component.
- 1902.4 In the ARTS Overlay District, the bonus density and height permitted with bonus uses shall also serve as the guidelines for planned unit developments.

SOURCE: Final Rulemaking published at 37 DCR 1392, 1397 (February 23, 1990); as amended by Final Rulemaking published at 39 DCR 8323, 8324 (November 13, 1992); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8492 (October 20, 2000).

**1903 STREET FRONTAGE DESIGN REQUIREMENTS**

1903.1 The design requirements of §§ 1903.2 through 1903.4 shall apply to any lot that fronts on one or more of the following streets, hereafter referred to in this section as “pedestrian streets”:

- (a) Fourteenth Street;
- (b) U Street;
- (c) Seventh Street; and
- (d) Florida Avenue between 7th and 9th Streets.

1903.2 Notwithstanding the provisions of § 2117.8(c)(1), no driveway that provides access from a pedestrian street to required parking spaces or loading berths shall be permitted.

1903.3 Each new building on a lot that fronts on a pedestrian street shall be designed and built so that not less than seventy-five percent (75%) of the streetwall(s) to a height of not less than fifteen feet (15 ft.) shall be constructed to the property line between the subject lot and the abutting street right-of-way.

1903.4 Not less than fifty percent (50%) of the surface area of the streetwall(s) at the ground level of each building on a lot that fronts on a pedestrian street shall be devoted to display windows and to entrances to commercial uses or to the building; provided:

- (a) The windows shall use clear or low-emissivity glass, except for decorative or architectural accent; and
- (b) Entrances to the building, including entrances to shops and the main lobby, shall be separated by not more than forty feet (40 ft.) on average for the linear frontage of the building.

**SOURCE:** Final Rulemaking published at 37 DCR 1392, 1397 (February 23, 1990); as amended by Final Rulemaking published at 39 DCR 8323, 8325 (November 13, 1992); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8492 (October 20, 2000).

**1904 BONUS DENSITY**

1904.1 A project shall be eligible for bonus gross floor area for space devoted to one of the preferred uses listed in § 1904.2; provided:

- (a) Bonus density may be used either to increase the gross floor area of the building for any permitted use up to the maximum floor area ratio (FAR) specified in paragraph (b) of this subsection, or to provide nonresidential uses or development in excess of the otherwise applicable limitation on the gross floor area of nonresidential uses in the underlying zone district; and
- (b) No building that uses bonus density shall achieve a maximum FAR in excess of 6.0 in the underlying CR District, 4.5 in the underlying C-3-A and C-2-B Districts, or 3.0 in the underlying C-2-A District.

1904.2 The following preferred uses shall be eligible for bonus floor area at the ratio indicated:

	<u>Gross floor area devoted to the bonus use</u>		<u>Proportionate number of square feet of additional gross floor area earned for on-site or off-site development</u>
(a) Below market housing;	1	to	3
(b) Legitimate theater;	1	to	3
(c) Department store, drugstore, dry cleaner, laundry, grocery store, hardware store, variety store, and any use listed in § 1908 other than legitimate theater or drinking places;	1	to	2
(d) Any use listed in §§ 1907 and 1908, in excess of the required 0.5 FAR at ground level; not to be counted in addition to bonus floor area from paragraph (b) or (c) of this subsection; and	1	to	1.5
(e) Space in a building constructed before 1958 and occupied by one of the uses listed in paragraphs (a) through (d); provided, that this bonus shall count in addition to any applicable use bonus.	1	to	1

1904.3 A building that includes 3.0 or more FAR devoted to residential use is entitled to a bonus of 0.5 FAR.

1904.4 A preferred use, in existence and with a valid certificate of occupancy as of February 23, 1990, shall be eligible to earn a bonus as indicated in § 1904.2.

- 1904.5 An existing legitimate theater shall be eligible for the bonus indicated; provided, if the theater company goes out of business or leaves the area governed by this chapter, the owner-developer shall make every good faith effort to transfer the agreement to another theater company to occupy the same or different premises of similar size; failing which, the owner-developer shall apply to the Board of Zoning Adjustment for a special exception pursuant to §§ 1906 and 3104, at which proceeding the Board and the applicant shall give first preference to substituting another bonus use from § 1904 in place of the prior theater use.
- 1904.6 If a surface parking lot devoted to transient parking is the basis for developing bonus floor area on another lot, the covenant required by § 1905.1(f) shall require the transient parking lot to continue in existence for at least ten (10) years from the date of issuance of the building permit for the lot where the bonus floor area will be built; provided, that operation of the parking lot may be suspended for not more than twenty-four (24) months to permit the construction of a parking structure that will replace the surface lot and be subject to the same covenant.

**SOURCE:** Final Rulemaking published at 37 DCR 1392, 1398 (February 23, 1990); as amended by Final Rulemaking published at 39 DCR 8323, 8325 (November 13, 1992); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8493 (October 20, 2000)

## **1905 COMBINED LOT DEVELOPMENT**

- 1905.1 Two (2) or more lots may be combined for the purposes of transferring bonus density and allocating the permitted mixture of uses among development sites; provided:
- (a) The lots may be located in the same square or in different squares within the ARTS Overlay District;
  - (b) The maximum permitted floor area for all uses and the maximum floor area for nonresidential uses shall be calculated as if the lots were one lot, and the total project shall conform with both limitations;
  - (c) Bonus floor area earned by the provisions of § 1904 may be developed on any lot or combination of lots governed by the covenant required by paragraph (f) of this subsection; provided, no development on any lot shall exceed the maximum height and bulk standards in §§ 1902 and 1904.1(b); and provided further, the ground level uses required by § 1901.1 shall not be transferred, but shall be provided on each lot;
  - (d) In the underlying CR District, the provisions of this section shall apply in lieu of §§ 631.3 and 631.4;

- (e) If a combined lot development involves the transfer of bonus density or allocates residential development rights from one lot to another, the Certificate of Occupancy for the bonus floor area for the nonresidential building shall not be issued until a building permit has been issued for the building that will provide the residential or other preferred uses;
- (f) No transfer of floor area for preferred uses or of bonus floor area shall be effective under this section unless an instrument, legally sufficient in both form and content to effect such a transfer, in a form approved by the Corporation Counsel, has been entered into among all of the parties concerned, including the District of Columbia;
- (g) A certified copy of the instrument of transfer shall be filed with the Zoning Administrator before approval by the Department of Consumer and Regulatory Affairs of any building permit application affected by such transfer;
- (h) The document shall be recorded in the Office of the Recorder of Deeds, serving as a notice both to the receiving lot and sending lot of the transfer of floor area for preferred uses or of bonus floor areas; and
- (i) The notice of restrictions and transfer shall run with the title and deed to each affected lot.

**SOURCE:** Final Rulemaking published at 37 DCR 1392, 1400 (February 23, 1990); as amended by Final Rulemaking published at 39 DCR 8323, 8326 (November 13, 1992); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8493-94 (October 20, 2000).

## **1906 SPECIAL EXCEPTIONS**

**1906.1** Exceptions from the requirements of the ARTS District shall only be permitted if granted by the Board of Zoning Adjustment in accordance with § 3104 after public hearing, based on the following criteria:

- (a) The uses, buildings, or features at the size, intensity, and locations proposed, will substantially advance the purposes of the ARTS Overlay District and will not adversely affect neighboring property or be detrimental to the health, safety, convenience, or general welfare of persons living, working, or visiting in the area;



- (b) Exceptional circumstances affecting the property make compliance with the requirements of this chapter difficult or impossible, or the development provides alternative public benefits in lieu of the excepted uses or features that are of comparable value to the public in achieving the purposes of this chapter and of the Comprehensive Plan;
- (c) The architectural design concept of the project will enhance the urban design features of the immediate vicinity in which it is located; provided, if a historic district or historic landmark is involved, the Board shall refer the application to the State Historic Preservation Officer for review and report;
- (d) Vehicular access and egress are located and designed so as to minimize conflict with principal pedestrian ways, to function efficiently, and to create no dangerous or otherwise objectionable traffic conditions; and
- (e) The Board may impose requirements pertaining to design, appearance, signs, size, landscaping, and other such requirements as it deems necessary to protect neighboring property and to achieve the purposes of the ARTS Overlay District.

1906.2 If a telephone exchange that existed on February 23, 1990 is thereafter destroyed, it may be rebuilt without compliance with the provisions of this chapter or chapter 20 of this title.

SOURCE: Final Rulemaking published at 37 DCR 1392, 1401 (February 23, 1990); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8494 (October 20, 2000).

## **1907 RETAIL AND SERVICE USES**

1907.1 For the purpose of this chapter, the following uses shall be preferred retail and service uses:

- (a) Antique Store;
- (b) Apparel and Accessories Store;
- (c) Appliance Store;
- (d) Auction House;
- (e) Auto and Home Supply Store, excluding installations;
- (f) Bank, Loan Office, or Financial Institution;

- (g) Bakery, limited to baking of food sold on premises;
- (h) Bicycle Shop;
- (i) Barber or Beauty Shop;
- (j) Candy Store;
- (k) Clinic;
- (l) Computer Store;
- (m) Cosmetic Store;
- (n) Camera Store;
- (o) Delicatessen;
- (p) Department Store;
- (q) Dressmaking or Tailor Shop;
- (r) Drug Store;
- (s) Dry Cleaner;
- (t) Fabric Store;
- (u) Florist and Plant Store;
- (v) Furniture Store;
- (w) Gift, Novelty, and Souvenir Shop;
- (x) Grocery Store;
- (y) Hardware Store;
- (z) Health or Exercise Studio;
- (aa) Paint Store;
- (bb) Pet Store;

- (cc) Printing, Fast Copy Service;
- (dd) Public Agency Office;
- (ee) Public Library;
- (ff) Radio, Television, and Consumer Electronic Store;
- (gg) Secondhand Store;
- (hh) Shoe Repair and Shoeshine Parlor;
- (ii) Shoe Store;
- (jj) Social Service Agency Office;
- (kk) Specialty Food Store;
- (ll) Sporting Goods Store;
- (mm) Telegraph Office;
- (nn) Tobacco Store;
- (oo) Travel Agency, Ticket Office;
- (pp) Variety Store;
- (qq) Video Tape Rental; and
- (rr) Other similar personal/consumer service establishment or retail use, including assemblage and repair clearly incidental to the principal use.

**SOURCE:** Final Rulemaking published at 37 DCR 1392, 1402-03 (February 23, 1990).

**1908 ARTS USES AND ARTS-RELATED USES**

**1908.1** For the purposes of this chapter, the following uses shall be preferred arts uses and arts-related uses:

- (a) Art Center;
- (b) Art Gallery;

- (c) Art School, including school of dance, photography, filmmaking, music, writing, painting, sculpturing, or printmaking;
- (d) Artist Housing;
- (e) Artist Studio;
- (f) Artists' Supply Store;
- (g) Arts Services, including set design and restoration of artworks;
- (h) Concert hall or other performing arts space;
- (i) Book Store;
- (j) Cabaret;
- (k) Craftsman or artisan;
- (l) Dinner Theater;
- (m) Drinking Places, including bar, nightclub, or cocktail lounge;
- (n) Legitimate Theater;
- (o) Movie Theater;
- (p) Museum;
- (q) Performing Arts Ticket Office or Booking Agency;
- (r) Photographic Studio;
- (s) Picture Framing Shop;
- (t) Record Store, Musical Instruments Store;
- (u) Restaurant; and
- (v) Television and Radio Broadcast Studio;

**SOURCE:** Final Rulemaking published at 37 DCR 1392, 1403-04 (February 23, 1990).

**1999 DEFINITIONS**

- 1999.1 The provisions of § 199 of chapter 1 of this title, and the definitions set forth in that section shall be incorporated by reference in this chapter.
- 1999.2 When used in this chapter, the following terms and phrases shall have the meaning ascribed:

**Below-market housing** - a housing unit or units offered for sale or rent according to the following criteria:

- (a) The qualifying housing unit is offered for rent at a rent level, including utilities, that does not exceed twenty-five percent (25%) of the maximum allowable monthly gross income of a lower income household whose composition is consistent with the size and type of housing in question, and the availability of the unit at such a rent is covenanted for a period of twenty (20) years by the housing provider; or
- (b) The qualifying housing unit is offered for sale at a price such that the monthly payment of principal, interest, taxes, and insurance (PITI) on the property shall not exceed twenty-eight percent (28%) of the maximum allowable monthly gross income of a lower income household whose composition is consistent with the size and type of housing unit in question, assuming that the household obtains a ninety-five percent (95%) loan-to-loan, thirty (30) year fully amortized mortgage at an interest rate equal to the conventional mortgage interest rate as reported for the then current month in Federal Reserve Statistical Release H.15 (519) or its successor;
- (c) Lower Income Household, including individuals, shall be defined as households whose income does not exceed eighty percent (80%) of the median household income for households of the same size in the Washington, D.C., metropolitan area as established periodically by the U.S. Department of Housing and Urban Development or its successor; and
- (d) The Zoning Administrator shall send a copy of the application to the D.C. Department of Housing and Community Development and the Office of Planning for review and report within fifteen (15) days of the referral.

**Department store** - a single retail store, in excess of fifty thousand square feet (50,000 ft.<sup>2</sup>) of gross leasable area, that is:

- (a) Involved in the sale of, among other things, apparel and furnishing;

- (b) Organized into departments or sections that are integrated under single management; and
- (c) Operated under a single certificate of occupancy.

**Gross leasable area-** the sum of the floor area occupied by the business or use, as measured from the exterior faces of the walls encompassing the space, and including any stairways, elevator shafts, escalators, or mechanical areas inside the perimeter walls occupied by multiple tenants or multiple uses; the central elevator core or cores, associated lobbies, stairways, and mechanical areas shall be excluded from gross leasable area if they serve the building as a whole.

**Transient parking** - parking spaces provided for short-term parking in a parking garage or parking lot. The applicant shall submit to the Zoning Administrator a plan for ensuring that the spaces will be used for transient parking consistent with the purposes of this chapter. The Zoning Administrator shall send a copy of the application to the D.C. Department of Transportation and to the Office of Planning for review and report within fifteen (15) days of the referral.

**SOURCE:** Final Rulemaking published at 37 DCR 1392, 1403 (February 23, 1990); as amended by Final Rulemaking published at 39 DCR 8323, 8326 (November 13, 1992).